

Internal Revenue Service
Director, Exempt Organizations
2 Cupania Circle
Monterey Park, CA 91755

Department of Treasury
Western Area (TE/GE)

Date: MAR 06 2000

Case Number:

Person to Contact:

Telephone Number:

(FAX)

In Reply Refer To:

EIN:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code.

THE FACTS

The information submitted discloses that you were incorporated on

Your Articles of Incorporation do not state a specific purpose, however, they do state that the corporation is, "organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code."

Your application 1024 states that the specific purposes of your organization are "to provide a neighborhood and community club devoted to individual and community health and well being, by creating a healing environment that consolidates in a single, peaceful setting a variety of health services that emphasize holistic and spiritual wellness." That, " provides or facilitates the offering of a number of free or low cost classes..." " provides space for a study center, community meetings, and referral service." you also maintain a library, produce a quarterly newsletter and donate to 501(c)(3) organizations.

Neighborhood boundaries are defined as starting at and and and and to

Attachment C to your application states, as well, "All practitioners who lease space from staff, and other employees are required to become members."

Your letter dated states, as well, that fees for hot tub rental and memberships have been increased and that the ratio of gross income from rental of hot tubs and facility to total gross income was approximately % in , % in , and % in .

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Your principal sources of support in order of size, per your application 1024 are:

Income from related business services
membership fees, and
donations.

Per your letter dated [REDACTED], membership fees and donations would comprise less than [REDACTED] % of gross income.

A bill of sale included with your application states that, "[REDACTED]" agrees to sell to [REDACTED], the business now located in the basement of [REDACTED]. This bill of sale includes physical assets such as hot tubs and related equipment, office furniture, tub supplies, wall decorations and mirrors." The bill of sale states further, "[REDACTED]" agrees not to open a competitive location in [REDACTED] without the consent of [REDACTED]. In essence, this comprises a covenant not to compete for business.

Your application states, as well, that [REDACTED] is a partner in a limited liability company.

THE LAW

The term "trade or business" has the same meaning it has in section 162 and generally includes any activity carried on for the production of income from the sale of goods or the performance of services.

Regulation 1.501(c)(4)-1 states, in part, "Civic organizations - (1) In general A Civic league or organization may be exempt as an organization described in section 501(c)(4) if:

- (i) it is not organized or operated for profit; AND
- (ii) it is operated exclusively for the promotion of social welfare.

An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A "social welfare" organizations will qualify for exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d)(2) of 1.501(c)(3)-1."

Section 1.501(c)(3) of the Income Tax Regulations provides, in part:

"(2) Charitable defined. The term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration of section 501(c)(3) of other tax exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such terms include: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments or works; lessening the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes."

CONCLUSION

From the facts and the law cited above, it appears that your organization does not qualify for exemption from Federal income tax under Code section 501(c)(4).

Your organization received the substantial portion of its income from the sale of hot tub services and rental income.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the

Code, it must be primarily engaged in promoting the common good and general welfare of the community as a whole.

After careful consideration of the evidence submitted, we have concluded that you are not primarily engaged in promoting the common good and general welfare of the people in your community and, therefore, you are not operating exclusively for the promotion of social welfare. Your operation of the business of renting hot tubs is similar to a for profit business and you do not qualify for exemption from Federal income tax as a social welfare organization described in 501(c)(4) of the Internal Revenue Code.

Accordingly, you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

You have the right to protest this ruling and request a hearing with the Office of Appeals if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You will be contacted by the Appeals Officer to arrange a conference. A conference may be arranged at a mutually convenient District office of the Internal Revenue Service.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation,

Sincerely yours,



Steven T. Miller
Director, Exempt Organizations

Enclosure:
Publication 892
Notice 1214